

STATE OF MINNESOTA

IN SUPREME COURT

C4-85-697

In re Amendments to Canon 5
of the Code of Judicial Conduct

ORDER

By order filed February 14, 2006, we invited comments on amendments proposed to conform Canon 5 of the Code of Judicial Conduct to the holdings of the United States Court of Appeals for the Eighth Circuit in *Republican Party of Minnesota v. White*, 416 F.3d 738 (8th Cir. 2005), *cert. denied sub nom. Dimick v. Republican Party of Minnesota*, ___ U.S. ___ (2006) (*White II*). That comment period expired, and by order filed March 29, 2006, we adopted amendments to Canon 5.

In the February 14 order, we also invited proposals for or comments concerning additional amendments that should be made based on the decisions in *Republican Party of Minnesota v. White*, 536 U.S. 765 (2002), *White II*, and related legal developments, to be submitted on or before April 28, 2006. Although several comments were received during the initial comment period that recommended broader amendments relating to partisan activity or solicitation of campaign funds, no additional comments were received during the extended comment period.

We noted in our February 14 order that the Minnesota State Bar Association (MSBA) was studying the need for amendments to Canon 5 in light of the *White* decisions. The MSBA did not submit comments, but we are aware that the MSBA adopted two resolutions relating to amendment of Canon 5. The first supports the revisions to Canon 5 proposed in the court's February 14 order. The second resolution recommends that the court appoint an ad hoc advisory committee to conduct a comprehensive review of the Code of Judicial Conduct to assess whether additional amendments are appropriate in light of the *White* decisions and the need to preserve the integrity and impartiality of the Minnesota judiciary, including review of changes to the Model Judicial Code adopted by the American Bar Association, now expected in February 2007. The resolution recommends that there be no further amendments to Canon 5 until the advisory committee has reported its recommendations to the court.

The MSBA recommendation that further study is advisable before adopting additional changes to Canon 5 is sound and prudent. Particularly, we will be better and more fully informed about the need for additional changes after the ABA recommendations and the experience of the upcoming election cycle are available.

Based upon all the files, records, and proceedings here,


IT IS HEREBY ORDERED that no further changes to Canon 5 will be made at this time.

IT IS FURTHER ORDERED that the court will appoint an ad hoc advisory committee to study the need for and advisability of further amendments to Canon 5 and

other provisions of the Code of Judicial Conduct, with consideration of changes that may be included in the new model code to be adopted by the ABA.

Dated: July 19, 2006

BY THE COURT:

A handwritten signature in dark ink, appearing to read 'R. Anderson', is written over a horizontal line.

Russell A. Anderson
Chief Justice

OFFICE OF
APPELLATE COURTS

JUL 19 2006

FILED